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Attorneys for Defendant

**COSTCO WHOLESALE CORPORATION**

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

ANGELA GARCIA,

Plaintiff,

vs.

COSTCO WHOLESALE  
CORPORATION; JOHN DOES 1-20;  
JANE DOES 1-20; DOE  
CORPORATIONS 1-20; DOE  
PARTNERSHIPS 1-20; DOE  
GOVERNMENTAL ENTITIES 1-20,

Defendants.

CIVIL NO. \_\_\_\_\_  
(Other Non-Vehicle Tort)

NOTICE OF REMOVAL; EXHIBIT  
“A”; CERTIFICATE OF SERVICE

TRIAL DATE: None  
JUDGE:

874.35/Ntc Removal Fr CC to USDC.nko.rkh

**NOTICE OF REMOVAL**

Defendant COSTCO WHOLESALE CORPORATION (“Costco”) gives  
notice, pursuant to 28 U.S.C. §§1441 and 1446, of the removal of this case from

the Circuit Court of the Second Circuit, State of Hawai‘i, to the United States District Court for the District of Hawai‘i. The removal is grounded upon the following facts:

1. A civil lawsuit (the “Action”) has been commenced and is currently pending against Costco and various Doe Defendants in the Circuit Court of the Second Circuit, State of Hawaii, Civil No. 2CCV-21-0000157, entitled *Angela Gracia vs. Costco Wholesale Corporation, et al.*

2. The initial pleading in the Action was Plaintiff’s Complaint filed on May 27, 2021. The Complaint was served upon Costco on June 16, 2021. This notice of removal is filed within 30 days after said service. A true and correct copy of the Complaint is attached hereto as Exhibit “A”. Exhibit “A” constitutes all of the process, pleadings and orders served upon Costco to date.

3. Plaintiff claims to be a resident of the County of Maui, and is a citizen of the state of Hawaii. Costco is a Washington corporation with a statutory home office, and its principal place of business is located at 999 Lake Drive, Issaquah, WA 98027.

4. Plaintiff’s counsel has advised that Plaintiff fractured her right wrist during a slip-and-fall Incident.

5. Upon information and belief, based upon the circumstances of the Incident and the nature of Plaintiff’s injuries and damages as related by her

counsel, the amount in controversy as alleged in the Action exceeds \$75,000.00, exclusive of interest and costs.

6. Based upon the foregoing, the Court has original jurisdiction over the Action under the provisions of 28 U.S.C. § 1332(a)(1) because there is complete diversity of citizenship between the Plaintiff and Defendant, and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

7. The Action is removable pursuant to 28 U.S.C. §§ 1441 (b).

8. A copy of this notice of removal will be served upon all adverse parties.

9. A copy of this notice of removal will be filed with the Circuit Court of the First Circuit, State of Hawaii, pursuant to 28 U.S.C. §1446(d), promptly after the filing of this notice of removal.

Defendant reserves, and does not waive, its objections to jurisdiction and venue and any applicable affirmative defenses under Haw.R.Civ.P. 12 and/or Fed.R.Civ.P. 12.

DATED: Honolulu, Hawai'i July 16, 2021.

/s/ Norman K. Odani

ARTHUR F. ROECA

NORMAN K. ODANI

Attorneys for Defendant

LOWENTHAL & LOWENTHAL, LLC  
By: JACOB K. LOWENTHAL (9945)  
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Electronically Filed  
**SECOND CIRCUIT**  
**2CCV-21-0000157**  
**27-MAY-2021**  
**01:29 PM**  
**Dkt. 1 CMPS**

Attorneys for Plaintiff

IN THE CIRCUIT COURT OF THE SECOND CIRCUIT

STATE OF HAWAII

ANGELA GARCIA,

Plaintiff,

vs.

COSTCO WHOLESALE  
CORPORATION/JOHN DOES 1-20;  
JANE DOES 1-20; DOE  
CORPORATIONS 1-20; DOE  
PARTNERSHIPS 1-20; DOE  
GOVERNMENTAL ENTITIES 1-20.

Defendants.

Civil No. \_\_\_\_\_  
(Other Non-Vehicle Tort)

COMPLAINT; SUMMONS.

Plaintiff, ANGELA GARCIA, by and through her attorneys, hereby makes the following claims:

**PARTIES**

1. Plaintiff Angela Garcia is, and at all times relevant hereto was, a resident of the County of Maui.
2. Defendant Costco Wholesale Corporation is a foreign corporation doing business in the County of Maui, State of Hawai'i, and subject to the jurisdiction of this Court.

**EXHIBIT "A"**

3. Plaintiff is presently unable to ascertain the true names of Defendants John Does 1-20, Jane Does 1-20, Doe Corporations 1-20, Doe Partnerships 1-20, Doe Non-Profit Entities 1-20, Doe Governmental Entities 1-20 (herein Doe Defendants), who are therefore sued herein under fictitious names. Doe Defendants are connected with the named Defendants; and/or are the agents, servants, employees, representatives, or independent contractors of the named Defendants; and/or were in some manner engaged in the activities alleged herein; and/or were in some manner responsible for the injuries and damages sustained by Plaintiff. Pursuant to Hawai'i Rules of Civil Procedure Rule 17(d), Plaintiff will seek leave of Court to identify and substitute the true names, capacities, and responsibilities of the Doe Defendants when they are ascertained.

#### **JURISDICTION AND VENUE**

4. The Circuit Court of the Second Circuit, State of Hawaii, has jurisdiction over this matter pursuant to Haw. Rev. Stat. § 603-21.5.
5. Venue is proper pursuant to Haw. Rev. Stat. § 603-36(5) because the claim for relief arose in this Circuit.

#### **FACTUAL ALLEGATIONS**

6. At all times relevant herein, Defendant, and/or any of them, created, caused, allowed to exist, owned, leased, operated, cleaned, controlled, managed, and/or supervised, failed to inspect and/or maintain its premises, and/or failed to warn about and/or failed to eliminate a condition on the premises which was foreseeably dangerous to patrons of Defendant, and/or any of them, including Plaintiff, which condition created an unreasonable risk of harm to Plaintiff, and was a cause of Plaintiff's injury, at certain real property of Defendants, and/or any of them,

generally known as Costco Wholesale, situated at or around 540 Haleakala Hwy, Kahului, Maui, Hawaii, 96732.

7. On or about December 7, 2019, Plaintiff was lawfully on Defendant Costco Wholesale Corporation's premises.
8. After returning her book, Plaintiff turned around to exit the way she came in. She walked three or four steps and was still inside the building when she stepped onto a spilled smoothie from the Costco food court.
9. Plaintiff's foot slid forward and she fell and sustained serious injuries.

**LIABILITY**

**(NEGLIGENCE)**

10. Plaintiff alleges and incorporates by reference the preceding paragraphs of the Complaint as though fully set forth herein.
11. Plaintiff was reasonably anticipated to be on Defendant's premises.
12. Defendant had a duty toward Plaintiff to exercise reasonable care to maintain its premises in a safe condition and remove unreasonable risks of harm that arose from the way in which their business was conducted or operated.
13. Defendant knew or should have known of the unreasonable risk of harm.
14. Defendant had sufficient control over the property to be able to take reasonable steps to remove the unreasonable risk of harm or to give adequate warning of that risk.
15. Defendant failed to take reasonable steps to remove the unreasonable risk of harm or to give adequate warning of that risk.

16. Additionally, Defendant's mode of operation, specifically its method of allowing beverages to be brought in from the nearby Costco food court and spilled in the walking area, created a condition that posed an unreasonable risk of harm.
17. Defendant's failures and/or mode of operation were a legal cause of injury to Plaintiff.

### **INJURIES AND DAMAGES**

18. As a direct and proximate result of the Defendant's actions, Plaintiff has sustained injuries for which she is entitled to be compensated, including but not limited to the following:
  - a. Past, present and future pain and suffering;
  - b. Past, present and future mental distress and anguish;
  - c. Health care expenses for past and future treatment related to the above; and
  - d. Lost wages.

WHEREFORE, Plaintiff respectfully requests the following:

- a. That Defendants be found jointly and severally liable for the injuries, damages and losses described above;
- b. That appropriate relief be granted, including awards of general and special damages in amounts to be proven at trial, along with reasonable attorney's fees and costs, and such other and further equitable relief as the Court deems just and proper.

Dated: Wailuku, Maui, Hawai'i 5/27/2021.

/s/ JACOB K LOWENTHAL  
JACOB K. LOWENTHAL  
Attorney for Plaintiff  
ANGELA GARCIA

<b>STATE OF HAWAII</b> <b>CIRCUIT COURT OF THE</b> <b>SECOND CIRCUIT</b>	<b>SUMMONS</b> <b>TO ANSWER CIVIL COMPLAINT</b>	
CASE NUMBER  PLAINTIFF ANGELA GARCIA	PLAINTIFF'S NAME & ADDRESS, TEL. NO. LOWENTHAL & LOWENTHAL, LLLC JACOB K. LOWENTHAL (9945) 33 N Market St, Suite 101 Wailuku HI 96793	
DEFENDANT(S) COSTCO WHOLESALE CORPORATION; JOHN DOES 1-20; JANE DOES 1-20; DOE CORPORATIONS 1-20; DOE PARTNERSHIPS 1-20; DOE GOVERNMENTAL ENTITIES 1-20		

**TO THE ABOVE-NAMED DEFENDANT(S)**

You are hereby summoned and required to filed with the court and serve upon  
 LOWENTHAL & LOWENTHAL, LLLC  
 JACOB K. LOWENTHAL (9945)  
 33 N Market St, Suite 101  
 Wailuku HI 96793

\_\_\_\_\_

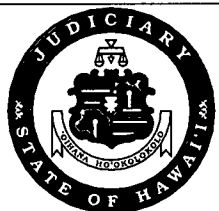
plaintiff's attorney, whose address is stated above, an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the date of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.


**THIS SUMMONS SHALL NOT BE PERSONALLY DELIVERED BETWEEN 10:00 P.M. AND 6:00 A.M. ON PREMISES NOT OPEN TO THE GENERAL PUBLIC, UNLESS A JUDGE OF THE ABOVE-ENTITLED COURT PERMITS, IN WRITING ON THIS SUMMONS, PERSONAL DELIVERY DURING THOSE HOURS.**

**A FAILURE TO OBEY THIS SUMMONS MAY RESULT IN AN ENTRY OF DEFAULT AND DEFAULT JUDGMENT AGAINST THE DISOBEYING PERSON OR PARTY.**

DATE ISSUED \_\_\_\_\_

Effective Date of 28-Oct- 2019  
 Signed by: /s/ D. Pellazar Clerk,  
 2nd Circuit, State of Hawaii
 





If you need an accommodation for a disability when participating in a court program, service, or activity, please contact the ADA Coordinator as soon as possible to allow the court time to provide an accommodation:  
 Call (808) 244-2855 FAX (808) 244-2932 OR Send an e-mail to: [adarequest@courts.hawaii.gov](mailto:adarequest@courts.hawaii.gov). The court will try to provide, but cannot guarantee, your requested auxiliary aid, service or accommodation.

EXHIBIT "A"



IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

ANGELA GARCIA,

Plaintiff,

vs.

COSTCO WHOLESALE  
CORPORATION; JOHN DOES 1-20;  
JANE DOES 1-20; DOE  
CORPORATIONS 1-20; DOE  
PARTNERSHIPS 1-20; DOE  
GOVERNMENTAL ENTITIES 1-20,

Defendants.

CIVIL NO. \_\_\_\_\_  
(Other Non-Vehicle Tort)

CERTIFICATE OF SERVICE

TRIAL DATE: None  
JUDGE:

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing document was served by United States mail, first class postage prepaid; or electronically through CM/ECF ("CM/ECF") as indicated below, upon the following on July 16, 2021:

JACOB K. LOWENTHAL  
33 North Market Street, Suite 101  
Wailuku, Maui, Hawaii 96793  
Email: [jl@lowenthal-hawaii.com](mailto:jl@lowenthal-hawaii.com)  
Attorney for Plaintiff  
ANGELA GARCIA

U.S. Mail      CM/ECF

X

DATED: Honolulu, Hawai'i July 16, 2021.

/s/ Norman K. Odani

ARTHUR F. ROECA

NORMAN K. ODANI

Attorneys for Defendant

COSTCO WHOLESALE CORPORATION